Commonwealth of Virginia

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STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
BLEACHTECH L.L.C.
FOR
BleachTech LLC – Petersburg
VPDES Permit No. VAR05
Storm Water Registration No. VAR051963

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and BleachTech L.L.C., regarding the BleachTech L.L.C. – Petersburg facility located at 2020 Bessemer Road, Petersburg, Virginia 23805, for the purpose of resolving certain violations of the State Water Control Law, associated regulations, and the Virginia Pollution Discharge Elimination System Permit No. VAR 05 ("Permit").

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.

2. "BleachTech" means BleachTech L.L.C., a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. BleachTech is a "person" within the meaning of Va. Code § 62.1-44.3.

3. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. "Discharge" means the discharge of a pollutant.

7. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:

    a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or

    b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

8. "DMR" means Discharge Monitoring Report.

9. "Facility" or "Site" means the BleachTech, LLC – Petersburg facility located at 2020 Bessemer Road, Petersburg, Virginia 23805, from which discharges of stormwater associated with industrial activity occur.

10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.

12. "Permit" means VPDES General Permit No. VAR05, which was issued under the State Water Control Law and the Regulation on July 1, 2019 and which expires on June 30, 2024. BleachTech registered for coverage under the Permit and was issued registration number VAR051963.

13. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water… 9 VAC 25-31-10.

14. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

15. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

16. "Registration statement" means a registration statement for coverage under a storm water general permit.

17. "Regulation" means the Virginia Pollution Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity, 9 VAC 25-151-10, *et seq*. andthe Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation 9 VAC 25-30-10, *et seq*.

18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.

19. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.

20. "SWPPP" means Stormwater Pollution Prevention Plan.

21. "Va. Code" means the Code of Virginia (1950), as amended.

22. "VAC" means the Virginia Administrative Code.

23. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. BleachTech is a limited liability company operating in Virginia as a manufacturer of bleach. The company's principal office is located in Seville, Ohio. It has two manufacturing sites – one in Seville, Ohio and the other in Petersburg, Virginia (the "Facility").

2. BleachTech has operated at the Site since 2010, and receives deliveries and transports product using the services of Kenan Advantage Group ("KAG"). BleachTech allows KAG trucks and storage trailers to be stored at the Site. The Facility consists of a main building (the "Plant"), four tank farms, multiple cooling towers, a salt storage dome, two brine pits, a truck loading/unloading area, a rail loading/unloading area, and multiple open areas for parking. The surfaces of the outside portion of the Site are largely gravel with some grassy areas and small sections of impervious surface.

3. BleachTech has numerous stormwater drains throughout the Site. Multiple secondary drains flow to a single primary drain ("DI-6"), which then flows into a stormwater retention pond (the "Pond") located northeast of the Site. The Pond is equipped with a riser that allows flow through cement pipes which discharge to an unnamed tributary of Lieutenant Run. The Facility's only outfall ("Outfall 001") is located where the cement pipes discharge to the unnamed tributary

4. In 2010, BleachTech first obtained coverage under VPDES General Permit for Stormwater Discharges Associated with Industrial Stormwater Permit No. VAR051963 (the "Permit"), for discharge of stormwater associated with industrial activity at the Facility. Coverage under the permit was re-issued in 2014 and 2019.

5. The Permit allows BleachTech to discharge stormwater associated with industrial activity from the Facility to an unnamed tributary of Lieutenant Run, in strict compliance with the terms and conditions of the Permit.

6. Lieutenant Run is located in the Appomattox River Basin. During the 2018 305(b)/303(d) Integrated Water Quality Assessment, the tributary was not assessed for any designated use and is a Category 3A waterbody. The discharge was not addressed in the Appomattox River Basin Bacterial Total Maximum Daily Load ("TMDL"). The Appomattox River Basin Bacterial TMDL was approved by the U.S. Environmental Protection Agency ("EPA") on August 30, 2008 and by the Virginia State Water Control Board on December 20, 2005. The Chesapeake Bay TMDL was approved by EPA on December 29, 2010. The TMDL allocates loads for total nitrogen, total phosphorus, and total suspended solids to protect the dissolved oxygen and submerged aquatic vegetation criteria in the Chesapeake Bay and its tidal tributaries. Lieutenant Run drains to the Appomattox Tidal Freshwater estuary. The unnamed tributary is shown as ephemeral on U.S. Geological Service topographical mapping and is considered a Tier 1 water.

7. 9 VAC 25-151-70 states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.

8. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

9. The Department has issued coverage under no VPDES permits or certificates to BleachTech other than under VPDES Permit No. VAR051963**.**

10. The unnamed tributary of Lieutenant Run is a surface water located wholly within the Commonwealth, and is a "state water" under State Water Control Law.

11. On March 19, 2020, DEQ was notified of a release of approximately 300 gallons of sodium hydroxide flowing into a stormwater drain near the Plant truck loading area (the "March Release"). The sodium hydroxide flowed into the stormwater drain, through the Facility's stormwater system and into the Plant's stormwater Pond. Several remediation measures took place, including bladder installation at DI-6, at the riser in the Pond, and in the piping just before Outfall 001. Fluctuations in pH measurements were noted throughout the remediation process. As of May 21, 2020, remediation activities associated with the March Release were completed, though there remained outstanding water quality concerns regarding the stormwater system and the Pond.

12. On May 11, 2020, DEQ staff were notified that a release occurred from the brine pit at the Facility. The release occurred when the Facility failed to properly operate the brine pump coming into the Plant. The operational failure allowed depleted recycle brine solution to overflow from one of the brine pits for approximately 15-20 minutes into the stormwater system. On May 21, 2020, DEQ was notified that a release occurred allowing brine and stormwater to spill into the Plant's stormater Pond.

13. The Facility was inspected on May 5, 2020, May 22, 2020, June 15, 2020, and June 30, 2020 (the "2020 Inspections").

14. As a result of the 2020 Inspections, PRO issued an NOV on July 14, 2020 (NOV No. W2020-07-P-0003) ("July NOV"), citing the following observations:

    a. On May 5, 2020, a hose attached to a water storage tank associated with a non-contact cooling system was observed discharging to the facility's storm sewer collection system.

    b. During the May 5, 2020 inspection, white residual staining was observed: i.) trailing from a hose servicing the brine lading area to a down-gradient storm inlet; ii) on the ground near multiple sections of disconnected hose adjacent the sodium hydroxide AST storage area; iii) on the ground around an uncovered waste receptacle containing an unknown white material with similar appearance to the residual staining; and iv) areas of petroleum staining were observed on the ground near the maintenance garage structure.

       During the May 22, 2020 inspection, several puddles of green liquid were located on the ground near the Kenan Advantage Group tractor-trailer parking area on the north side of the site. BleachTech staff performed a pH measurement of this liquid and the results were reported to DEQ as pH of 12 S.U. This area drains into the facility's storm sewer system.

c. During the May 5, 2020 inspection, vehicle tracking of salt from the storage dome was observed. This area discharges to a down-gradient stormwater drop inlet in the south parking area.

During the June 15, 2020 recon inspection, damage to the salt storage building was observed; the salt was accumulating on the ground and was exposed to stormwater.

d. During the May 5, 2020 inspection, annual non-stormwater discharge evaluations for 2018 and 2019 were not available for review.

e. During the May 5, 2020 inspection, documentation of 2019 routine site inspections were not available for review.

f. During the May 5, 2020 inspection, documentation of the 2nd quarter 2019 stormwater quarterly visual examination was not available for review.

g. The facility collected their fourth Chesapeake Bay TMDL Monitoring sample on June 17, 2016. The Chesapeake Bay TMDL calculations due February 29, 2020, were not timely submitted to DEQ.

h. A review of analytical results from samples collected in November 26, 2018 at Outfall 001 indicate an exceedance of the benchmark maximum concentration for total recoverable aluminum. The SWPPP did not contain revisions in response to this benchmark exceedance.

i. The discharge monitoring report for the 2nd-half of 2018 lists the preceding rain event as occurring one day, eighteen hours before the sampling event on November 26, 2018.

j. Inaccuracies and process flaws in stormwater sample collection and analysis include: i) certificates of analysis for the 2nd half of 2016 and 1st half of 2017 noted the Nitrate/Nitrite and TSS were not analyzed within holding times; and ii) the chain of custody and sample preservation logs from the 2nd half of 2018 and 1st half of 2019 noted the sample laboratory did not receive samples on ice and that additional preservation was required.

k. The following items are absent from the facility's SWPPP: site location and drainage map, including a clear depiction of the receiving stream, locations where significant spills or leaks have occurred, a properly identified outfall, and location and description of all non-stormwater discharges.

l. Training material relevant to the components and goals of the facility's SWPPP was not available for review.

m. Control measures to minimize off-site tracking of raw, final, or waste materials are not included in the facility's SWPPP.

n. Records provided by the facility on June 15, 2020 indicate low pH levels were collected at "Outfall to Creek (SP4)" from June 9, 2020 until June 11, 2020. DEQ did not receive 24-hour notification or 5-day reports regarding these low pH measurements.

o. Release to state waters on approximately June 9, 2020 as indicated by pH measurements reported at Outfall 001 and SP4: 6/9/20 – 3.52 S.U.; 6/10/20 – 5.06 S.U.; 6/11/20 – 5.85 S.U.

15. In regard to Paragraph 8(a) and (o), Va. Code § 62.1-44.5(A) states, "[e]xcept in compliance with a certificate or permit issued by the Board or other entity authorized by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; 2. Excavate in a wetland; 3. Otherwise alter the physical, chemical or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses . . ."

9 VAC 25-31-50(A) also provides that "[e]xcept in compliance with a VPDES permit, or another permit, issued by the board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses." Permit Part I.B.1 requires that "[e]xcept as provided in this section or in Part IV (9VAC25-151-90 *et seq*.), all discharges covered by this permit shall be composed entirely of stormwater . . . All other nonstormwater discharges are not authorized and shall either be eliminated or covered under a separate VPDES permit."

Permit Part II F requires that "[e]xcept in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: 1) Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2) Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses."

Permit Part I.B.1 requires that, "Except as provided in this section or in Part IV, all discharges covered by this permit shall be composed entirely of stormwater."

16. In regard to Paragraph 8(b) above, Permit Part III B.4.b (1) states, "The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants to stormwater discharges. The permittee shall perform the following good housekeeping measures to minimize pollutant discharges:
    (a) The SWPPP shall include a schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks, and containers;
    (b) As feasible, the facility shall sweep or vacuum;
    (c) Store materials in containers constructed of appropriate materials;
    (d) Manage all waste containers to prevent a discharge of pollutants;
    (e) Minimize the potential for waste, garbage, and floatable debris to be discharged by keeping areas exposed to stormwater free of such materials or by intercepting such materials prior to discharge; and
    (f) Facilities that handle pre-production plastic or plastic waste shall implement BMPs to eliminate stormwater discharges of plastics."

17. In regard to Paragraph 8(b) and (c) above, Permit Part III B.4.b. (2) states, "To the extent practicable, manufacturing, processing and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) shall be located inside, or protected by a storm-resistant covering to prevent exposure to rain, snow, snowmelt, and runoff…Unless infeasible, facilities shall implement the following:
    (a) Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from potential sources of pollutants;
    (b) Locate materials, equipment, and activities so that potential leaks and spills are contained, or able to be contained, or diverted before discharge;
    (c) Clean up spills and leaks immediately, upon discovery of the spills or leaks, using dry methods (e.g., absorbents) to prevent the discharge of pollutants;
    (d) Store leaking vehicles and equipment indoors or, if stored outdoors, use drip pans and adsorbents;
    (e) Utilize appropriate spill or overflow protections equipment;
    (f) Perform all vehicle maintenance or equipment cleaning operations indoors, under cover, or in bermed areas that prevent runoff and run-on and also capture any overspray; and
    (g) Drain fluids from equipment and vehicles that will be decommissioned, and for any equipment and vehicles that remain unused for extended periods of time, inspect at least monthly for leaks."

18. In regard to Paragraph 8(c) above, Permit Part III B.4.b (5) states, "Storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation. The permittee shall implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. All salt storage piles shall be located on an impervious surface. All runoff from the pile, and runoff that comes in contact with salt, including under drain systems, shall be collected and contained within a bermed basin lined with concrete

or other impermeable materials, or within an underground storage tank or tanks, or within an above ground storage tank or tanks, or disposed of through a sanitary sewer (with the permission of the owner of the treatment facility). A combination of any or all of these methods may be used. In no case shall salt contaminated stormwater be allowed to discharge directly to the ground or to surface waters."

19. In regard to Paragraph 8(d) above, Permit Part III D.2.a states, "The SWPPP shall include documentation that all stormwater outfalls associated with industrial activity have been evaluated annually for the presence of unauthorized discharges. . ."

20. In regard to Paragraph 8(e) above, Permit Part III B.5 states, "Personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can also evaluate the effectiveness of control measures shall regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater, areas where spills or leaks have occurred in the past three years, discharge points, and control measures. At least one member of the pollution prevention team shall participate in the routine facility inspections.

The inspection frequency shall be specified in the SWPPP based upon a consideration of the level of industrial activity at the facility, but shall be at a minimum of once per calendar quarter unless more frequent intervals are specified elsewhere in the permit or written approval is received from the department for less frequent intervals. Inspections shall be performed during operating hours. At least once each calendar year, the routine facility inspection shall be conducted during a period when a stormwater discharge is occurring. . . Any deficiencies in the implementation of the SWPPP that are found shall be corrected as soon as practicable, but not later than within 60 days of the inspection, unless permission for a later date is granted in writing by the director. The results of the inspections shall be documented in the SWPPP . . ."

21. In regard to Paragraph 8(f) above, Permit Part I A.1.a (1) states, "The permittee shall perform and document a quarterly visual examination of a stormwater discharge associated with industrial activity from each outfall, except discharges exempted in Part I A 3 or Part I A 4. The examinations shall be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The visual examination shall be made during normal working hours, where practicable, and when considerations for safety and feasibility allow. . . The documentation shall be signed and certified in accordance with Part II K of this permit." Permit Part I A.1.a (3) states, "The visual examination reports shall be maintained on-site with the SWPPP."

22. In regard to Paragraph 8(g), Permit Part I B.8.b (2) states, "Facilities that completed four samples for TSS, TN, and TP during the 2014 industrial stormwater general permit term shall utilize the procedures in Part I B 8 c (2) to calculate their facility stormwater loads. The permittee shall submit a copy of the calculations and

Chesapeake Bay TMDL action plan if required under Part I B 8 f to the department within 60 days of coverage under this general permit."

23. In regard to Paragraph 8(h) above, Permit Part I A.6.a (1) states, "If the benchmark monitoring result exceeds the benchmark concentration value for that parameter, the permittee shall review the SWPPP and modify it as necessary to address any deficiencies that caused the exceedance. Revisions to the SWPPP shall be completed within 60 days after an exceedance is discovered. . . Any control measure modifications shall be documented and dated, and retained with the SWPPP, along with the amount of time taken to modify the applicable control measures or implement additional control measures."

24. In regard to Paragraph 8(i) above, Permit Part I A.2.b states, "A minimum of one grab sample shall be taken from the discharge associated with industrial activity resulting from a storm event that results in a discharge from the site (defined as a "measurable storm event"), providing the interval from the preceding measurable storm event is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period."

25. In regard to Paragraph 8(j) above, Permit Part II A.2 states "Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit."

26. In regard to Paragraph 8(k) above, Permit Part III B.2.b states the SWPPP shall include, "A site map identifying the following: . . .
    (5) Locations of all surface water bodies, including wetlands;
    (6) Locations of potential pollutant sources identified under Part III B 3;
    (7) Locations where significant spills or leaks identified under Part III B 3 c have occurred;
    (8) Locations of stormwater outfalls.
        (a) An approximate outline of the area draining to each outfall;
        (b) The drainage area of each outfall in acres;
        (c) The longitude and latitude of each outfall;
        (d) The location of any MS4 conveyance receiving discharge from the facility; and
        (e) Each outfall shall be identified with a unique numerical identification code. For example: Outfall Number 001, Outfall Number 002, etc.;
    (9) Location and description of all non-stormwater discharges; . . ."

27. In regard to Paragraph 8(l) above, Permit Part III B.4.b (6) states, "The permittee shall implement a stormwater employee training program for the facility. The SWPPP shall include a schedule for all types of necessary training, and shall document all training sessions and the employees who received the training. Training shall be provided at least annually for all employees who work in areas where industrial

materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance personnel, etc.). The training shall cover the components and goals of the SWPPP, and include such topics as spill response, good housekeeping, material management practices, control measure operation and maintenance, etc. The SWPPP shall include a summary of any training performed."

28. In regard to Paragraph 8(m) above, Permit Part III B.4.b (9) states, "The permittee shall implement control measures to minimize the generation of dust and off-site tracking of raw, final, or waste materials. . . There shall be no direct discharge to surface waters from dust suppression activities or as a result of spraying stockpiles."

29. In regard to Paragraph 8(n) above, in addition to the provisions of Va. Code § 62.1-44.5(A), 9 VAC 25-31-50(A), and Permit Part II F cited above, 9 VAC 25-260-50 lists the acceptable range for pH in nontidal waters to be 6.0-9.0 S.U. Further, Permit Part II G states, "Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery."

30. BleachTech provided information and documentation as requested in the 2020 inspection reports and July NOV. Among the concerns noted by BleachTech representatives and employees was a failing infrastructure at the Facility and a lack of attention needed to fund repairs and stormwater control projects. Specifically, BleachTech reported four separate releases in September of 2020 – three of which are believed to be the result of failing infrastructure. Investigation, evaluation and repair work has since been prioritized as described in the Schedule of Compliance attached and incorporated by reference as Appendix A of this Order.

31. The Department met with representatives of BleachTech on August 11, 2020 to discuss the violations, BleachTech's response, and to conduct a follow-up inspection. BleachTech representative and Department staff maintained, and continue to maintain, regular correspondence and interaction.

32. Based on the foregoing information, the Board concludes that BleachTech has violated Va. Code § 62.1-44.5(A); 9 VAC 25-31-50(A); and Permit conditions Part I B.1, Part II F, Part III B.4.b (1) – (2) and (5), Part III D.2.a, Part III B.5, Part I A.1.a (1) & (3), Part I B.8.b (2), Part I A.6.a (1), Part I A.2.b, Part II A.2, Part III B.2.b, Part III B.4.b (6), Part III B.4.b (9), Part II G as described in the paragraphs above.

33. In order for BleachTech to complete its return to compliance, DEQ staff and BleachTech have agreed to the Schedule of Compliance incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders BleachTech and BleachTech agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of **$252,652** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

BleachTech shall include its Federal Employer Identification Number (FEIN) with the civil charge payment **and** shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, BleachTech shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of BleachTech for good cause shown by BleachTech, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. W2020-07-P-0003 dated July 14, 2020. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, BleachTech admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. BleachTech consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. BleachTech declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by BleachTech to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. BleachTech shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. BleachTech shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. BleachTech shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and BleachTech. Nevertheless, BleachTech agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. The Director or his designee terminates the Order after BleachTech has completed all of the requirements of the Order;

    b. BleachTech petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

    c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to BleachTech.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve BleachTech from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by BleachTech and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of BleachTech certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind BleachTech to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of BleachTech.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, BleachTech voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2021.

_____
James J. Golden, Regional Director
Department of Environmental Quality

----------(Remainder of Page Intentionally Blank)----------

BleachTech L.L.C. voluntarily agrees to the issuance of this Order.

Date: JUNE 28 2021 By: Timothy F. Maegly OWNER
Tim Maegly, Owner
BleachTech L.L.C.

State of Ohio

City/County of North Ridgeville, Lorain County

The foregoing document was signed and acknowledged before me this 28 day of June, 2021, by Timothy E. Maegly who is Owner of BleachTech L.L.C., on behalf of the company.

Michelle M. Brody
Notary Public

Registration No.

My commission expires: 09/20/2023

Notary seal:

MICHELLE M BRODY
NOTARY PUBLIC, STATE OF OHIO
LORAIN COUNTY
My Comm. Expires Sep. 20, 2023

BleachTech L.L.C. voluntarily agrees to the issuance of this Order.

Date: June 29 2021 By: _____, _____
Richard Immerman Owner
BleachTech L.L.C.

State of
City/County of Cuyahoga Mayfield Hts

The foregoing document was signed and acknowledged before me this 29th day of June, 2021, by Richard Immerman who is Owner of BleachTech L.L.C., on behalf of the company.

_____
Notary Public

_____
Registration No.

My commission expires: 08/13/2023

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

I. Stormwater Planning and Prevention

1. *Dedicated Environmental, Health & Safety Staff.* **Within 30 days** of the effective date of this Order, BleachTech shall identify qualified staff by name and title responsible for Environment, Health and Safety ("EHS") matters associated with BleachTech Operations at the Petersburg, VA facility. BleachTech shall submit such Position Description(s) to DEQ for review and coordination upon completion. Such staff members shall have meaningfully sufficient corporate support, authority and position in the BleachTech corporate structure to independently identify and resolve facility compliance risks, and instruct other BleachTech staff on compliance measures. Position in corporate structure, specific program responsibilities and percentage of allotted work time to ESH activities for each staff member shall be described in individual Position Description(s). Such Position Description(s) shall include, but not be limited to, requirements to maintain compliance with VPDES Permit VAR051963 (2019) and any subsequent issuance.

2. *Employee Training Plan*. **Within 30 days** of the effective date of this Order, BleachTech shall complete and implement an updated Stormwater Employee Training Plan for the Facility. BleachTech shall submit such Stormwater Employee Training Plan to DEQ for review and coordination upon completion. The training plan shall include a schedule for necessary training, record of all training sessions and attendance. Training shall be provided for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the Stormwater Pollution Prevention Plan ("SWPPP") (e.g., inspectors, maintenance personnel, etc.). The training shall cover the components and goals of the SWPPP, and include, but not be limited to, such topics as spill response, good housekeeping, material management practices, process water management, control measure operation and maintenance. Such training shall be conducted pursuant to a clear understanding of the prohibition of non-stormwater discharges.

3. *Preventive Maintenance Plan*. **Within 30 days** of the effective date of this Order, BleachTech shall complete a comprehensive, facility-wide Preventive Maintenance Plan. BleachTech shall submit such Preventive Maintenance Plan to DEQ for review and coordination upon completion. Such plan shall include regular inspection, testing, maintenance and repair of all industrial equipment, systems, process water lines and other systems having the potential to cause leaks, spills and other releases of pollutants in stormwater. Such plan shall also include a detailed list of inspection items, frequency of inspection, options for comments and recommendations resulting from inspection, and description of maintenance, repair or replacement as a response measure. Such Preventive Maintenance Plan shall be developed pursuant to a clear understanding of the prohibition of non-stormwater discharges.

4. *Operation and Maintenance Manual*. **Within 180 days** of the effective date of this Order, BleachTech shall complete a comprehensive, facility-wide Operation and Maintenance Manual ("O&M Manual") and continue to update such O&M Manual consistent with all applicable and

relevant requirements provided in this Schedule of Compliance. BleachTech shall submit such O&M Manual to DEQ for review and coordination upon completion. The O&M Manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of VPDES Permit VAR051963 and prevent non-stormwater discharges. The O&M Manual shall include, but not be limited to: a) permitted outfall locations and techniques to be employed in the collection, preservation, and analysis of storm water; b) procedures for measuring and recording the duration and volume of storm events; c) procedures for handling, storing, and disposing of all wastes, fluids, and pollutants to prevent these materials from reaching state waters (i.e. list type and quantity of wastes, fluids, and pollutants (e.g. chemicals) stored at this facility); d) discussion of wastewater and stormwater design, routine operation, non-routine operation, routine preventative maintenance, critical spare parts inventory and record keeping; e) plan for the management and/or disposal of waste solids and residues; f) hours of operation and staffing requirements for the plant to ensure effective operation of the treatment works and maintain permit compliance; g) list of facility, local and state emergency contacts; h) procedures for reporting and responding to any spills/overflows/process upsets; and i) detailed explanation of stormwater, process water, and wastewater management, including collection areas and contingency operations. Any changes in the practices and procedures in the O&M shall be indicated by date of revision and fully implemented within 90 days of such revision. BleachTech shall operate the stormwater collection systems in full accordance with the O&M Manual and shall make the O&M manual available to the Department for review during facility inspections. Such O&M Manual shall be developed pursuant to a clear understanding of the prohibition of non-stormwater discharges.

II. Facility Evaluation

1. *Comprehensive Stormwater System Evaluation.* **Within 120 days** of the effective date of this Order, BleachTech shall complete a Comprehensive Stormwater System Evaluation of the Facility stormwater system to determine the basis of current selection, design, and installation of control measures and Best Management Practices ("BMPs"). BleachTech shall submit such Comprehensive Stormwater System Evaluation to DEQ for review and coordination upon completion. The evaluation must determine system condition and performance toward the elimination of pollutants in industrial stormwater discharges from the Facility. Facility-wide stormwater flow calculations shall also be completed to fully document the basis of current selection, design, and capacity of the Facility collection system, control measures and BMPs. The evaluation shall be conducted by a reputable third-party consultant selected by BleachTech. The evaluation shall describe compliance risks to inform SWPPP revision and BleachTech initiated corrective action. Where compliance risks are identified, such evaluation shall describe recommended corrective action. The evaluation shall consider, but not be limited to, requirements provided by VPDES Permit VAR051963 Part IIIB through D (2019); and U.S. Environmental Protection Agency, *Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators*, EPA 83-B-009-002 (February, 2009). Specific areas for evaluation include, but are not limited to: a) all potential stormwater sources, including pervious and impervious ground surfaces, and building collection systems; b) stormwater collection inlets, outlets and any form of conveyance with a full understanding of the influence of intrusion and infiltration; c) stormwater retention and discharge systems, including the Facility drainage

lagoon and Outfall 001; and d) the influence of ground subsidence, sub-surface voids, erosion and unstable soil foundation occurring at structure and equipment foundations. Corrective action recommended by the evaluation shall be implemented **within 90 days** of DEQ coordination and completed **within 180 days**.

2. *Phase I Environmental Assessment.* At the request of DEQ, BleachTech completed a Phase I Environmental Assessment for the Facility, and provided a submittal entitled *Environmental Site Assessment, Phase I* (October 16, 2020), authored by A3E Environmental Consultants for DEQ staff review on February 24, 2021. The submittal was reviewed and determined satisfactory. The assessment determined soil contamination resulting from leaks, spills and releases, and was conducted by a reputable third-party consultant selected by BleachTech.

a. *Phase II Environmental Assessment*. Based on the results of the Phase I Environmental Assessment and, in particular, finding of recognized environmental conditions ("RECs"), BleachTech shall **within 120 days** of the completion of the Phase I Assessment conduct additional testing and characterization to confirm or negate the existence, nature and extent of REC conditions. The evaluation shall be conducted by a reputable third-party consultant selected by BleachTech.

b. *Remediation Based on Environmental Assessment*. If any such Phase II Environmental Assessment or additional testing reflects the existence of any conditions requiring remediation, BleachTech shall complete remediation **within 120 days** of discovery of those conditions such that no recognized environmental conditions exist. BleachTech shall submit any subsequent confirmatory testing to DEQ for review and coordination **within 30 days** of completion. If remediation is required, BleachTech shall submit verification of such remediation **within 30 days** of completion.

3. *Non-Stormwater Leak and Spill Audit*. **Within 120 days** of the effective date of this Order, BleachTech shall perform a Comprehensive Facility-Wide Audit. BleachTech shall submit the results of such audit in the form of an audit report to DEQ for review and coordination upon audit completion. Such audit shall identify and report all non-stormwater leaks, spills and releases including, but not limited to, an inspection of all process water lines, dikes, drums, tanks, vessels, containers, loading and off-loading areas, trash containers, storage areas, re-fueling stations, maintenance areas, in-door and out-door storage areas, salt storage silo, filter press and brine saturation pit. Building roofing and adjoining stormwater collection systems shall also be considered insofar as they directly convey or cause the conveyance of non-stormwater. The audit shall be conducted by a reputable third-party consultant selected by BleachTech. Such audit shall describe compliance strengths and risks to BleachTech. Where compliance risks are identified, such audit shall describe recommendations for BleachTech initiated corrective action. Such audit shall be conducted pursuant to a clear understanding of the prohibition of non-stormwater discharges.

4. *Container Identification*. **Within 60 days** of the effective date of this Order, BleachTech shall identify the contents of all containers at the Facility and ensure accurate labeling for appropriate product, process use, solid waste or hazardous waste management. BleachTech shall ensure all

containers at the Facility are appropriately managed to prevent risk of pollutant introduction to stormwater.

III. Facility Repair and Maintenance

1. Within 90 days of the effective date of this Order, BleachTech shall repair or replace the salt storage silo to ensure salt remains in the enclosure at all times, and that there is no potential for non-stormwater discharge from on-loading and off-loading activities. BleachTech shall specifically describe regular clean-up activities after on-loading and off-loading operations in the Preventive Maintenance Plan. *See* Para. I.3. All runoff from the pile, including on-loading and off-loading operations, shall be collected and contained within a bermed basin lined with concrete or other impermeable materials, or within an underground storage tank or tanks, or within an aboveground storage tank or tanks, or disposed of through a sanitary sewer (with the permission of the City of Petersburg). BleachTech shall inspect the impervious holding surface on a monthly basis to evaluate damage from operations. In no event shall salt contaminated stormwater be allowed to discharge directly to the ground or to surface waters.

2. **Within 180 days** of the effective date of this Order, BleachTech shall remove all unused equipment, drums, pallets, parts and other materials from the Facility exposed to rainfall and having potential risk of pollutant introduction to stormwater.

3. **Within 120 days** of the effective date of this Order, BleachTech shall repair and/or replace the compressed limestone hardpan to eliminate pooling and risk of pollutant introduction to stormwater.

4. **Within 30 days** of the effective date of this Order, BleachTech shall repair and/or replace the brine filter press to ensure proper operation and to eliminate risk of pollutant introduction to stormwater.

5. **Within 30 days** of the effective date of this Order, BleachTech shall repair and/or modify the saturation pit loading system to eliminate solid salt spills or brine overflows and eliminate risk of pollutant introduction to stormwater.

6. **Within 90 days** of the effective date of this Order, BleachTech shall remediate the soil and stone at the oil/water separator located near the rectifier. BleachTech shall also repair and/or replace the oil/water separator to eliminate risk of pollutant introduction to stormwater.

7. **Within 180** days of the effective date of this Order, BleachTech shall repair and/or replace all dikes, vessels, pipes, valves and equipment components, as needed, to eliminate the risk of pollutant introduction to stormwater.

8. **Within 90 days** of the effective date of this Order, BleachTech shall remove all gravel from around dikes, vessels, pipes, valves and equipment components to improve identification and response measures for leaks and spills. BleachTech shall also install an appropriate grade and thickness of concrete, sufficiently reinforced, wherever spills, leaks and releases are known to

occur to improve identification and response measures. In advance of this action, BleachTech shall determine if increased stormwater volume also requires improved stormwater management and storage.

9. **Within 30 days** of the effective date of this Order, BleachTech shall permanently discontinue pumping operations at the Facility stormwater retention pond.

10. **Within 30 days** of the effective date of this Order, BleachTech shall permanently discontinue discharge of all non-contact cooling water in the Facility stormwater management system.

IV. City of Petersburg Maintenance Agreement

1. *City of Petersburg Maintenance Agreement*. **Within 180 days** of the effective date of this Order, BleachTech shall complete a Declaration of Covenants for Storm and Surface Water Facility System and Maintenance ("Maintenance Agreement") with the City of Petersburg for the facilities located at 3501 Halifax Road, Petersburg VA. BleachTech shall submit such Maintenance Agreement to DEQ for review and coordination upon completion. Such Maintenance Agreement shall, at a minimum, include detailed repair and maintenance of the retention pond and outfall structure discharging to waters of the state. While the retention pond and outfall shall, in principle, be repaired to "as built" or substantially similar design standards, BleachTech may be further informed of any capacity and functional deficiencies of the retention pond and outfall by the facility stormwater evaluations required by other sections of this Schedule of Compliance. Such Maintenance Agreement shall also include a detailed maintenance schedule and be made a part of the SWPPP to facilitate operation and maintenance as part of the Facility's comprehensive stormwater system.

V. SWPPP Update and Revision

1. Where appropriate, BleachTech shall amend and update the SWPPP to reflect the corrective actions identified in this Schedule of Compliance. SWPPP modifications shall be made within 30 calendar days after discovery of the condition to be remedied, observation or event requiring a SWPPP modification. Implementation of new or modified control measures shall be initiated before the next storm event, but **no later than 60 days** after discovery of the condition to be remedied.

2. **Within 30 days** of the effective date of this Order, BleachTech shall complete a Standard Operating Procedure ("SOP") for inclusion into the SWPPP that establishes an appropriately detailed description of sampling processes. BleachTech shall submit such SOP to DEQ for review and coordination upon completion. The SOP shall include, but not be limited to: a) standardized protocol for sample collection; b) sample management and storage; c) sample transfer and chain of custody; d) required sample analysis and lab performing such analysis; e) sample certification; f) sample reporting requirements; and g) methodology for quality assurance and quality control. BleachTech shall also develop a Sample Location Map for inclusion into the SWPP that identifies all potential Facility sample locations. Sample locations shall be identified

by a naming convention that is consistently applied in Sample Location Map, SWPPP, sample collection, reporting and other sample related records.

3. **Within 30 days** of the effective date of this Order, BleachTech shall complete an SOP for inclusion into the SWPPP and or O&M Manual that establishes appropriately detailed loading and off-loading measures for all methods of material transportation (i.e. rail, tractor-trailer). BleachTech shall submit such SOP to DEQ for review and coordination upon completion. The SOP shall include, but not be limited to: a) daily record of all incoming and outgoing material by carrier and vehicle identification; b) material and volume transported; c) time and date of delivery to or from the Facility; and d) release or spill events resulting from loading and off-loading operations.

VI. DEQ Contact

Unless otherwise specified in this order, all submittals required by Appendix A shall be forwarded to: Jeff Reynolds, PRO Enforcement Office, 4949A Cox Road, Glen Allen, Virginia 23060.